

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MOSES PEREZ and DEE PEREZ,

Plaintiffs,

v.

Case No. 1:17-cv-02610

K&B TRANSPORTATION, INC. and KIARA
WHARTON,

Defendants.

FEB 06 2018

CERTIFICATE OF SERVICE

TO: John M. Power
Hadas M. Corey
COGAN & POWER, P.C.
1 E. Wacker Drive, Suite 510
Chicago, IL 60601

The undersigned attorney hereby certifies that on February 2, 2018, she served via U.S. Mail the following documents:

- Defendants' Responses to Plaintiffs' Supplemental Request to Produce
- Defendants' Answers to Plaintiffs' Supplemental Interrogatories

This certificate of service was filed with the Court by electronic filing protocols using the CM/ECF system, and a copy of same will thereby be electronically served upon all attorneys of record registered with the court's CM/ECF system.

Respectfully submitted,

By: /s/ Lamis G. Eli
Kathleen McDonough (ARDC # 6229813)
Lamis G. Eli (ARDC # 6308955)
Attorneys for Defendants
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Defendants.

**DEFENDANTS K&B TRANSPORTATION, INC. AND KIARA WHARTON'S
RESPONSES TO PLAINTIFFS' SUPPLEMENTAL REQUEST TO PRODUCE**

NOW COME the Defendants, K&B TRANSPORTATION, INC. and KIARA WHARTON, by and through their attorneys, WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP, and pursuant to Federal Rule of Civil Procedure No. 34, provide supplemental responses to Plaintiffs MOSES PEREZ and DEE PEREZ'S Supplemental Request to Produce as follows:

RESPONSES TO SUPPLEMENTAL REQUEST TO PRODUCE

1. Produce unreacted copies of all current and previous licenses held by Defendant, Kiara Wharton in every single state she has been licensed.

RESPONSE: Defendants object to the relevance of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence. Defendant Kiara Wharton's license information has been provided in Defendants' Answers to Supplemental Interrogatories. Her current and previously held licenses are identified as follows:

Utah: 214456121
Indiana: 1930096200
Georgia: 059127823
South Carolina: 103268654

2. Produce all Qualcomm data from the truck driven by Defendant, Kiara Wharton from her date of hiring in June of 2015 through 2016.

RESPONSE: Defendants object to the relevance of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and

without waiver of any objections, pursuant to its records retention policy, Defendants are not in possession of any Qualcomm data for this time period. Defendants reserve the right to supplement this request upon fulfillment of Plaintiffs' subpoena to Qualcomm.

3. Produce all of Kiara Wharton's PayPack records from 2015 through 2016.

RESPONSE: Defendants object to the relevance of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence.

4. Produce all documentation, data and video concerning K&B Transportation training on Federal Motor Carrier Safety Regulation 392.14.

RESPONSE: Defendants object to the production of any documentation, data and video concerning K&B Transportation videos. Defendants admitted in their answer to Plaintiffs' Complaint that Kiara Wharton was an employee at the time of the accident through the theory of *respondeat superior*. Notwithstanding Defendants' denial of all material allegations of negligence against Kiara Wharton, Plaintiff is prohibited from pursuing claims of negligence against K&B Transportation given its admission that Wharton was its employee and she was operating the tractor trailer in the scope of her employment for K&B Transportation when the accident occurred. "[A] plaintiff who is injured in a motor vehicle accident cannot maintain a claim for negligent hiring, negligent retention or negligent entrustment against an employer where the employer admits responsibility for the conduct of the employee under a *respondeat superior* theory." *Gant v. L.U. Transport*, 331 Ill. App. 3d 924, 928 (1st Dist. 2002). Any evidence regarding the sufficiency of K&B Transportation's hiring or training practices is irrelevant; therefore, any requests for such evidence is also irrelevant and objectionable. Further, there are no FMCSR 392.14-specific documents or training materials. K&B Transportation drivers are trained to follow the FMCSA as previously produced in PEREZ_K&B 000251-000333.

5. Produce all weather updates, texts, messages or emails sent from K&B Transportation to Kiara Wharton concerning conditions in the State of Illinois.

RESPONSE: Defendants object to the relevance of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiver of any objections, pursuant to its records retention policy, Defendants are not in possession of any Qualcomm data for this time period. Defendants reserve the right to supplement this request upon fulfillment of Plaintiffs' subpoena to Qualcomm.

6. Produce all reports created by Matt Tipton concerning the wreck of January 20, 2016.

RESPONSE: None.

7. Produce all reports created by Kiara Wharton and directed to K&B concerning the wreck of January 20, 2016.

RESPONSE: None.

8. Produce all transportation of good contracts and agreements between Tyson Fresh Meats, Inc. and K&B Transportation, and Meijer Inc. and K&B Transportation in effect from 2015 to 2016.

RESPONSE: Defendants object to the relevance and overbroad scope of this of this Request as it is not reasonably calculated to lead to the discovery of admissible evidence.

Respectfully submitted,

WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP

By:



Attorney for Defendant,
K&B TRANSPORTATION, INC.

Kathleen McDonough, Esq.

Lamis G. Eli, Esq.

WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP

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WHARTON,

Defendants.

**DEFENDANTS K&B TRANSPORTATION, INC. AND KIARA WHARTON'S
ANSWERS TO PLAINTIFFS' SUPPLEMENTAL INTERROGATORIES**

NOW COME the Defendants, K&B TRANSPORTATION, INC. and KIARA WHARTON, by and through their attorneys, WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP, and pursuant to Federal Rule of Civil Procedure No. 33, answer Plaintiffs MOSES PEREZ and DEE PEREZ'S Supplemental Interrogatories as follows:

ANSWERS TO SUPPLEMENTAL INTERROGATORIES

1. List all previous addresses of the Defendant, Kiara Wharton for the last ten (10) years.

ANSWER: April 2017 to Present:
1530 PBLN #W3730
Wichita Falls, TX 76302

April 2016 to April 2017:
4625 71st St., Apt. 265
Lubbock, TX 79424

March 2015 to April 2016:
2812 N. New Jersey
Indianapolis, IN 46205

May 2014 to March 2015:
5250 Truman Dr.
Decatur, GA 30035

March 2014 to April 2015:
555 Airport Creek Point
Colorado Springs, CO 80916

February 2013 to March 2014:
1824 Remount Rd.
Charleston, SC 29406

April 2007 to February 2013:
2536 Manlove Ave.
Indianapolis, IN 46218

2. List all current and previous states in which Defendant, Kiara Wharton has held a driver's license for the past ten (10) years.

ANSWER: Indiana, South Carolina, Georgia. Defendant Kiara Wharton also had a learner's permit from Utah.

3. Provide all license numbers currently and previously held by Defendant, Kiara Wharton for the past ten (10) years.

ANSWER: Utah: 214456121
Indiana: 1930096200
Georgia: 059127823
South Carolina: 103268654

4. State whether Defendant, Kiara Wharton possessed two cell phones on January 20, 2016.

ANSWER: No.

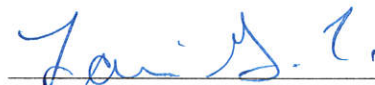
5. State whether the call made by Kiara Wharton to Matt Tipton concerning the wreck of January 20, 2016 was recorded or transcribed. If said call was recorded or transcribed, please produce the recording pursuant to Rule 34.

ANSWER: The call from Kiara Wharton to K&B Transportation, Inc. concerning the wreck of January 20, 2016, was not recorded or transcribed.

Respectfully submitted,

WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP

By:



Attorney for Defendant,
K&B TRANSPORTATION, INC.

Kathleen McDonough, Esq.

Lamis G. Eli, Esq.

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